

PATENT COOPERATION TREATY

REC'D 23 FEB 2005

WIPO

PCT

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2004/016405

International filing date (day/month/year)
24.05.2004

Priority date (day/month/year)
23.05.2003

International Patent Classification (IPC) or both national classification and IPC
B65D1/02

Applicant
GRAHAM PACKAGING COMPANY, L.P.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA220.

3. For further details, see notes to Form PCT/ISA220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523856 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Cazacu, C

Telephone No. +49 89 2399-2645



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/016405

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/016405

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 68.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 68.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US2004/016405

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
☒ claims Nos. 8-23

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 8-23
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
- | | |
|----------------------------|--|
| the written form | <input type="checkbox"/> has not been furnished |
| | <input type="checkbox"/> does not comply with the standard |
| the computer readable form | <input type="checkbox"/> has not been furnished |
| | <input type="checkbox"/> does not comply with the standard |
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-Bis of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/016405

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the International application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-7

Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-7
Inventive step (IS)	Yes: Claims	
	No: Claims	1-7
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/US2004/016405

III/IV

1. In claim 1 and throughout the application the "outer annular wall" 128 is incorrectly described as "concave". Fig. 1 clearly discloses the fact that the annular wall 128 is convex (In other words the wall 128 "holds water").

In claim 1 and throughout the application the "outer annular wall" 128 is incorrectly described as "concave". Fig. 1 clearly discloses the fact that the annular wall 128 is convex (in other words the wall 128 "holds water").

Anyway, the application lacks unity within the meaning of Rule 13.1 PCT for the following reasons:

The subject-matter of claim 1 is not new, document US-A-4 892 205 disclosing all the features of claim 1 (see Fig. 10-12; in particular flat inner annular wall 92; central dimple 89 or 108).

The features of claim 1 are also disclosed by documents US-A-2002096486 (D2) (see in particular Fig. 5 and dimple as dome 85), US-A-5 785 197 (D3) (Fig. 5; dimple 144, flat inner annular wall 160), US-A-5 713 480 (D4) (Fig. 2; dimple 26, flat inner annular wall 28), US-A-2001035391 (Figs. 2, 3; dimple 48), US-A-2002/0153343 (Figs. 1-5; anti-inverting dome 48), JP-A-09039934 (dimple 5) and JP-A-10181734 (dimple 7). Out of these features of claim 1, the concave annular wall, the inner wall and the centrally located dimple are common to independent method claim 23, as well. Consequently, the common inventive concept for claims 1 and 23 is not new in respect of the prior art documents cited above.

Hence the Examining Division considers that the following separate inventions or groups of inventions are not so linked as to form a single general inventive concept, no common inventive idea existing between the following claims or groups of claims:

1. The group of inventions disclosed in claims 1-7, with claims 2-7 referring to the inner periphery being made of blow molded plastic material and solving the problem of how to make the container,
2. The group of inventions disclosed in claims 8-17 and 23, referring to the dimple comprising a plurality of spaced apart radially extending ribs and solving the problem of reinforcing the base,

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/US2004/016405

3. The invention in claim 18, referring to the inner portion of the outer annular wall having a support ridge and solving the problem of vertical stacking of such containers;
4. The invention in claim 19, referring to the standing ring (not defined as such in claim 11) having a certain diameter and solving the problem of providing a standing support for the container;
5. The invention in claim 20, referring to the container comprising a thin-walled body and a blown wide-mouth finish, solving the problem of easy pouring;
6. The invention in claim 21, referring to the base being substantially circular and solving the problem of equal distribution of forces in the container; and
7. The invention in claim 22, referring to the sidewall comprising a substantially cylindrical label panel and solving the problem of providing stability in the label area.

Since it is not clear on which invention or group of inventions the further prosecution of the application should be based, no further examination can be carried out. The applicant is asked to state upon which invention or group of inventions further prosecution of the application should be based and to limit the application accordingly.

Further, it should be mentioned that the features in the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Still further, the subject-matter of independent method claim 23 comprises in respect of claim 1 the supplementary feature "spaced apart radially extending ribs" which is also disclosed in documents D1 (ribs 80b in Fig. 7), D2 (ribs 85 in Fig. 4), etc.